

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the following commentary.

I. Status of the Claims

Claims 1-27, 37-38, 41 and 44-50 were previously cancelled. Claims 42 and 43 have been amended for better clarity. Claims 64-72 have been added to clearly phrase the subject matter of claims 61-63, which have been cancelled accordingly.

Applicants acknowledge the finality of the present Office Action. Because the amendments: (i) are made to rephrase the subject matter in response to the rejection, (ii) are commensurate with the scope of the original claims, and (iii) place the application in condition for allowance, Applicants respectfully request entry of this amendment. Upon entry, claims 28-36, 39-40, 42-43, 51-60, and 64-72 will be pending.

II. Statement of the Substance of the Interview

Applicants thank Examiner James Alstrum-Acevedo for his guidance during an interview with Applicants' representative, Yang Tang, on October 6, 2008. Applicants clarified that a terminal disclaimer of U.S. Patent No. 6,264,922 was filed on February 4, 2004, a courtesy copy of which is submitted herewith.

Examiner Alstrum-Acevedo pointed out that the numeration of the steps recited in claims 42 and 43 were unclear. The claims in question have been amended for greater clarity. Moreover, in keeping with Examiner Alstrum-Acevedo's suggestion, new claims 64-72 have been added to rephrase the subject matter of claims 61-63. Applicants are grateful that Examiner Alstrum-Acevedo indicated that he would enter such claim amendments upon filing.

II. Rejection of Claims under 35 U.S.C. §112, second paragraph

Claims 61-63 are rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite. Applicants respectfully traverse the rejection.

In particular, the Examiner asserts that overlapping ranges render the claims indefinite. Applicants have replaced claims 61-63 with new claims 64-72 to delete the recitation of overlapping ranges of percentage of particles. The amendments are made to conform with the formalities without substantive change of the claimed subject matter. Accordingly, Applicants respectfully request withdrawal of the rejection.

III. Double Patenting Rejection

Claims 28-31, 33-36, 39-40, 42-43 and 51-59 remain rejected on the ground of nonstatutory obviousness-type double patenting over claims 8 and 24-30 of U.S. Patent No. 6,264,922. Applicants respectfully traverse the rejection.

In the prior response filed on April 3, 2008, Applicants stated that a terminal disclaimer for U.S. Patent No. 6,264,922 was submitted on February 4, 2004 and that the Examiner withdrew the double-patenting rejection in the final Office Action dated June 17, 2004. The Examiner asserts that “the terminal disclaimer filed on February 4, 2004 is limited to U.S. Patent No. 5,747,001” (page 5, lines 11-12).

Applicants submit herewith a copy of the Postcard Receipt from the U.S. PTO stamped the date of February 4, 2004, evidencing that both a “terminal disclaimer to Patent 6,264,922” and a “terminal disclaimer to Patent 5,747,001” were filed and received by the U.S. PTO on February 4, 2004.

Nevertheless, in an effort to expedite the prosecution, a courtesy copy of the terminal disclaimer for U.S. Patent No. 6,264,922, originally filed on February 4, 2004, is submitted herewith.

In view of the foregoing, Applicants respectfully request withdrawal of the double patenting rejection.

CONCLUSION

The present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

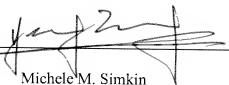
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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FOLEY & LARDNER LLP
Customer Number: 31049
Telephone: (202) 672-5538
Facsimile: (202) 672-5399

By


Michele M. Simkin
Registration No. 34,717
By Yang Tang
Registration No. 55,663